

REMARKS

Summary

Claims 1, 3-8, 10-15 and 17-20 stand in this application. Claims 2, 9 and 16 have been canceled without prejudice. Claims 1, 5 and 13 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 5 and 13 in order to facilitate prosecution on the merits.

35 U.S.C. § 101

At page 2, paragraph 4 of the Office Action claims 1-20 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the non-statutory subject matter rejection.

According to MPEP 2106(II)(A), the claimed invention as a whole must produce a “useful, concrete and tangible” result to have a practical application and comprise statutory subject matter. Applicant respectfully submits that the language of claims 1-20 provides a useful, concrete and tangible result, namely, in claim 1, allowing access to a first resource if the first network identifier satisfies the first access requirement. Therefore, Applicant respectfully submits that claims 1-20 are directed to statutory

subject matter as required by 35 U.S.C. § 101 and reconsideration and withdrawal of the non-statutory subject matter rejection is respectfully requested.

35 U.S.C. § 112

Claims 1-20 have been rejected under 35 U.S.C. § 112 for omitting essential steps and for omitting essential structural cooperative relationships of elements. Applicant respectfully traverses the rejections and requests reconsideration and withdraw of the § 112 rejections.

The Office Action states on page 3 that “[t]he omitted steps are: usage of the first network identifier and a port, and functional link to the first access requirement.” Applicant respectfully submits that support for the claims as written can be found in the specification at least at Figures 3, 4, 6, 7 and 8 and the accompanying text.

The Office Action also states on page 3 that “[t]he omitted structural cooperative relationships are: in regards to step b, whether the mobile device performs the reading step, the associating step, or both.” Applicant respectfully submits that support for the claims as written can be found in the specification at least at Figures 3, 4, 6, 7 and 8 and the accompanying text.

Therefore, Applicant respectfully requests reconsideration and withdraw of the § 112 rejections with respect to claims 1-20.

35 U.S.C. § 102

At page 3, paragraph 9 of the Office Action claims 1, 5-8, 10-15 and 17-20 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Number

(USPN) 7,032,243 to Leerssen et al. ("Leerssen"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Leerssen fails to teach each and every element recited in claims 1, 5-8, 10-15 and 17-20 and thus they define over Leerssen. For example, with respect to claim 1, Leerssen fails to teach, among other things, the following language:

obtaining a user name and password associated with a particular user of the first network;
reading a second access requirement stored locally at the mobile device; and
determining if the user name and password satisfies the second access requirement before allowing access to the first resource.

As correctly noted in the Office Action on 8, "Leerssen does not expressly disclose...authentication." Consequently, Leerssen fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1.

Claims 5 and 13 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 5 and 13 are not anticipated and are patentable over Leerssen for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 5 and 13. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 6-8, 10-12, 14, 15 and 17-20 that depend from claim 5 and 13 respectively, and therefore contain additional features that further distinguish these claims from Leerssen.

35 U.S.C. § 103

At page 8, paragraph 26 claims 2-4, 9 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Leerssen in view of USPN 7,130,880 to Burton et al. ("Burton"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicant has cancelled claims 2, 9 and 16 and has incorporated their subject matter into amended independent claims 1, 5 and 13 respectively. Therefore, the obviousness rejection with respect to claims 2, 9 and 16 will be addressed below with respect to amended claims 1, 5 and 13.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicant respectfully submits that the Office

Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 2-4, 9 and 16. Therefore claims 2-4, 9 and 16 define over Leerssen and Burton whether taken alone or in combination. For example, amended claim 1 recites the following language, in relevant part:

obtaining a user name and password associated with a particular user of the first network;
reading a second access requirement stored locally at the mobile device; and
determining if the user name and password satisfies the second access requirement before allowing access to the first resource.

As correctly noted in the Office Action, the above-recited language is not disclosed by Leerssen. According to the Office Action, the missing language is disclosed by the Burton at column 4, lines 1-10 and 35-50. Applicant respectfully disagrees.

Burton at the given cite, in relevant part, states:

FIG. 2 depicts the sharing of files and/or folders in the directory 24. If User A 50 shares a file with User B 52, the application 20 adds User A to User B's Friends attribute 54, then adds User B to User A's Friends attribute 50. This puts the user objects 27 into the Friends folder 42 of the Internet file system 26, making the user objects readily available for future sharing....

...If the user is authenticated, he/she is taken straight to the root of their file system 22. The Sign up page 62 presents a form 62a (such as an HTML form) that receives information regarding the user such as: User name, Password, E-mail address, First Name, Last Name, Address, and Interests (such as Golf, Photography, and Skiing).

If a user shares a folder with another user who is not registered with the application 20, a temporary user object is created with the e-mail address as the name of the

another user. When the sign up form is submitted, an ASP script 66 checks to see if the e-mail address entered corresponds with the temporary user. If it does, the user object is updated based on the new information provided. If there is no corresponding user object a new user object 70 is created with the information provided. The ASP script 66 then looks at the Interests 62b that the user has entered. Each interest is associated with a Group object 72 in the application container 68 of the directory 24. For each interest the user denotes, the user is added as a member of that group. The groups that the user is associated with are then added to the users list of friends 42.

By way of contrast, the claimed subject matter teaches “obtaining a user name and password associated with a particular user of the first network; reading a second access requirement stored locally at the mobile device; and determining if the user name and password satisfies the second access requirement before allowing access to the first resource.”

Applicant respectfully submits that Burton teaches the sharing of files between two users by use of a sign-up page that may contain a user name and password. However, Applicant respectfully submits that Burton fails to teach, suggest or disclose at least “reading a second access requirement stored locally at the mobile device” as recited in claim 1. In contrast, Burton only teaches one form of access requirement. Therefore, Burton fails to disclose, teach or suggest the missing language. Consequently, Leerssen and Burton, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 1.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, removal of the obviousness rejection with respect to claim 1 is respectfully

requested. Claims 3 and 4 also are non-obvious and patentable over Leerssen and Burton, taken alone or in combination, at least on the basis of their dependency from claim 1. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

Amended claims 5 and 13 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 5 and 13 are not obvious and are patentable over Leerssen and Burton for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 5 and 13.

For at least the reasons given above, claims 3 and 4 are non-obvious and represent patentable subject matter in view of the cited references, whether taken alone or in combination. Accordingly, removal of the obviousness rejection with respect to claims 3 and 4 is respectfully requested. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to

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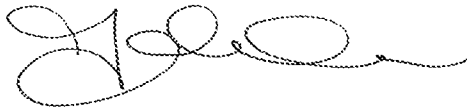
be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1, 3-8, 10-15 and 17-20 are in allowable form.
Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC

A handwritten signature in black ink, appearing to read 'John F. Kacvinsky', with a horizontal line extending to the right.

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: March 12, 2007

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